

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

IN RE NEW ENGLAND COMPOUNDING  
PHARMACY, INC. PRODUCTS  
LIABILITY LITIGATION

MDL No. 2419  
Dkt. No. 1:13-md-2419 (RWZ)

THIS DOCUMENT RELATES TO:

All Actions

**JOINTLY PROPOSED AGENDA  
FOR THE APRIL 29, 2015 STATUS CONFERENCE**

The Plaintiffs' Steering Committee, Official Creditors' Committee, and Trustee jointly propose the following agenda for the April 29, 2015 status conference. All defendants whose counsel filed notices of appearance in the MDL have been given an opportunity to comment on this proposed agenda.

**A. Motions for which oral argument is requested.<sup>1</sup>**

1. PSC Motion and Memorandum for Entry of Case Management Order Setting Expedited Trial Date [Dkts. 1716, 1717]
  - a. TN Clinic Defendants Notice of Automatic Ten-Day Extension [Dkt. 1736]
  - b. St. Thomas Notice of Automatic Ten-Day Extension [Dkt. 1739]
  - c. PSC Response [Dkt. 1740]
  - d. St. Thomas Opposition [Dkt. 1753]
  - e. TN Clinic Defendants Response to Motion [Dkt. 1754]
  - f. PSC Reply [Dkt. 1771]
  - g. Premier Opposition [Dkt. 1790]
2. Selection of Tort Trustee
  - a. Creditors' Committee Motion to Appoint David M. Molton Tort Trustee [Dkt. 1791]
  - b. PSC Motion for Appointment of Tort Trustee and Opposition [forthcoming]

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<sup>1</sup> These motions are also identified in the PSC's Motion to Schedule Oral Argument [Dkt. 1741].

**B. Report to the Court.**

3. Status of mediation efforts
  - a. Trustee Notice of Proposed Settlement with Liberty [Dkt. 1784]
4. Status of insurance declaratory actions:
  - a. *Certain Underwriters at Lloyd's, London v. Ameridose et al.*, 1:13-cv-12609-FDS; *Ironshore Specialty Ins. Co. v. Ameridose et al.*, 1:13-cv-13000-FDS
5. Status of discovery
  - a. Subpoena to FDA (*see infra*, #20)
  - b. MSM's Request to Defer or Abstain from Immediately Ruling on Pending Discovery [Dkt. 1762]
    - i. St. Thomas Response [Dkt. 1770]
    - ii. PSC Response [Dkt. 1789]
6. Status of litigation track
  - a. PSC Motion for Expedited Trial (see above)
7. Report from *Pro Se* Liaison
8. Status of bankruptcy
  - a. Trustee Notice re Liberty [Dkts. 1784]
9. Status of appeals
  - a. Order Staying Proceedings [*Artis et al v. N.E. Compounding Pharmacy, Inc. et al*, 13-2007; 14-1714; 14-1718]
10. Schedule for future status conferences
  - a. May 28, 2015, at 11:30 a.m. (Boal) and 2:00 p.m. (Zobel)
  - b. June 24, 2015, at 11:30 a.m. (Boal) and 2:00 p.m. (Zobel)

**C. Fully-briefed motions.**

11. Joint Stipulation to Stay the Action Between the Arbitrating Parties Pending Binding Arbitration [*Jeffries v. Ameridose*, Dkt. 1672, 14-cv-12789]
12. Ascension Parties' Motion to Certify Dismissal Pursuant to Fed. R. Civ. P. 54(b) [Dkt. 1521] (*oral argument held*)
  - a. PSC's Opposition [Dkt. 1568]
13. PSC Motion for Entry of Case Management Order Governing Coordination of Dispositive Motions (*oral argument held*) [Dkt. 1711]

- a. St. Thomas Response [Dkt. 1721]
  - b. TN Clinic Defendants Response [Dkt. 1722]
  - c. Box Hill Response [Dkt. 1727]
  - d. PSC Reply [Dkt. 1733]
  - e. Anonymous Health Clinics Response [Dkt. 1744]
14. In camera review of St. Thomas entities Trust Agreement [per Dkt. 1650] (*before Judge Boal*)
- a. PSC's Objections to Magistrate Judge Boal's order Denying Its Motion to Compel Production of Insurance Agreements [Dkt. 1618]
  - b. Order on PSC's Motion to Compel Production of Insurance Agreements [Dkt. 1590]
  - c. PSC Supplemental Memorandum on Motion to Compel Insurance Agreements [Dkt. 1710]
  - d. St. Thomas Opposition to PSC Supplemental Memorandum on Motion to Compel Insurance Agreements [Dkt. 1713]
15. St. Thomas Motion and Memorandum to Enforce Court Order Permitting Comparative Fault Discovery Against Settling Parties [Dkts. 1724, 1725]
- a. TN Clinic Defendants Joinder [Dkt. 1728]
  - b. ARL Response [Dkt. 1745]
16. Insight Health Corp. Joint Motion to Stay Discovery and All Other Proceedings Relating to Certain Virginia Cases [Dkt. 1748]
17. Liberty's Motion for Reconsideration on Summary Judgment [Dkt. 1619] (*oral argument held*)
- a. PSC's Opposition [Dkt. 1627]
18. Liberty Industries, Inc.'s Motion to Strike the Amended Declaration of Philip J. Austin, Ph.D. [Dkt. 1661]
- a. PSC Opposition to Liberty Industries, Inc.'s Motion to Strike the Amended Declaration of Philip J. Austin, Ph.D. and Declaration of Thomas M. Sobol in support. [Dkt. 1669, 1670]

**D. Briefing in progress.**

19. Dispositive Motions:

- a. Box Hill Motion to Dismiss [Dkt.1639]
    - i. Stipulation re Motion to Dismiss [Dkt. 1761]
  - b. Dr. Chowdhury's Motion to Dismiss [*Gilliam v. Chowdhury*, 15-cv-1367, Dkt. 11]
    - i. Stipulation re time to respond [Dkt. 1788]
20. TN Clinic Defendants Motion to Compel FDA's Compliance with Subpoena [Dkt. 1775]
- a. Motion to be heard at May 28 hearing before Magistrate Judge Boal
  - b. Magistrate Judge Boal's order setting briefing schedule [Dkt. 1776]
  - c. TN Clinic Defendants' Notice re Motion to Compel of Service of Motion on Non-Party [Dkt. 1777]
  - d. TN Clinic Defendants Notice re Postponement of Deposition [Dkt. 1778]
  - e. TN Clinic Defendants Certificate of Compliance with Local Rule 37.1 in support of Motion to Compel Response to Subpoena to the United States Food and Drug Administration [Dkt. 1793]

Dated: April 27, 2015

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I, Kristen A. Johnson, hereby certify that I caused a copy of the above Jointly Proposed Agenda for the April 29, 2015 Status Conference to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: April 27, 2015

/s/ Kristen A. Johnson  
Kristen A. Johnson, BBO # 667261